IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Crl.MC.No. 3362 of 2007()

CC.1119/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VARKALA

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PETITIONER: IST ACCUSED

NATRAJAN,S/O.KUTTAPPAN,
N.S. NIVAS, VAKKOM,THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.RAJESH
SMT.A.K.PREETHA

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3362 of 2007

Dated this the 6th day of November 2007

O R D E R

The petitioner, along with the co-accused faces indictment in a prosecution for the offences punishable inter alia under Sections 452 and 120B I.P.C. Altogether there were six accused persons. In the trial, the petitioner was able to take part till the stage of Section 313. As the petitioner was not available thereafter, the case against him was split up. The petitioner has not been able to appear before the learned Magistrate thereafter as he was compelled to leave for his place of employment abroad. He has now come back. He wants to appear before the learned Magistrate and participate in the proceedings. Four of the co-accused who faced the trial have been found not guilty and acquitted already. The petitioner had taken part in the proceedings till the stage of Section 313 examination. He wants to surrender and request the learned Magistrate to continue the proceedings from that stage. The petitioner apprehends that the application for bail to be filed by him on his surrender may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the

learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007